

**CITY OF NEWPORT BEACH  
PLANNING COMMISSION STAFF REPORT**

June 21, 2012 Meeting  
Agenda Item 3

**SUBJECT:** Review of Rules of Procedures of the Planning Commission  
PA2012-065

**PLANNER:** Brenda Wisneski, AICP, Deputy Community Development Director  
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**PROJECT SUMMARY**

On May 3, 2012, the Planning Commission directed staff to draft amendments to certain sections of the RULES OF PROCEDURES OF THE PLANNING COMMISSION (Procedures) for the Commission's consideration on June 21, 2012.

In accordance with Section XV, the Planning Commission may propose to amend or add to the Procedures at a regular meeting. The Procedures require written notice of the proposed amendment(s) or addition(s) to be filed with the Ex-Officio Secretary, prior to the Planning Commission taking final action on any proposed changes.

**RECOMMENDED ACTION**

Review and modify, if necessary, the proposed amendments to the Rules of Procedures of the Planning Commission for final action on July 5, 2012.

**DISCUSSION**

Pursuant to the Commission's verbal direction from May 3, 2012, draft amendments to the Procedures are shown in a strike-out version as Attachment No. PC 1. The draft changes are summarized below, and the Commission meeting minutes from May 3, 2012 are included in Attachment No. PC 2.

1. Update the reference from "Planning Director" to "Community Development Director";
2. Update the reference from "Chairman" and "Vice Chairman" to "Chair" and "Vice Chair";
3. Clarify the designation and role of the "Recording Secretary";
4. Simplify the reference of the location of Commission meetings to "in the council chambers of the City Council,...";
5. In Section VIII. Voting Procedure, clarify that four (4) members of the Commission represent a quorum;
6. In Section IX. Order of Business, update the order to reflect the current agenda format;

7. In Section X. Conduct of Meetings, subsections E. and F., modify the sections to allow the presiding officer to make a motion, including substitute motions;
8. In Section X. Conduct of Meetings, add a new procedure related to Public Comments;
9. In Section X. Conduct of Meetings, add a new procedure related to Use of Electronic Devices;
10. In Section XIII. Attendance, subsection C., clarify that the Ex-Officio Secretary shall notify the City Council of any Planning Commission vacancies; and
11. Add a new Section XVI. Minutes, regarding the preparation of the draft and final minutes.

Also attached for Planning Commission review are the minutes from the May 22, 2008, Commission meeting, which was the last time the Procedures were amended. The 2008 amendment included Section X. Conduct of Meetings as to the maker of a motion.

The Planning Commission also expressed concern regarding the capacity of the Council Chambers to accommodate large crowds. We (staff) believe that this will be less of an issue in the new Civic Center; however, in the meantime we will do our best to anticipate large crowds and make appropriate accommodations. We do not believe it is necessary to have a specific provision in the Procedures regarding this concern.


### **ENVIRONMENTAL REVIEW**

Revising the Planning Commission Rules of Procedures is not considered a "project" as defined by the California Environmental Quality Act (CEQA) in that this action has no potential to result in direct or indirect physical change to the environment.

### **PUBLIC NOTICE**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the Planning Commission considers this item); the item was shown on the agenda for this meeting, which was posted at City Hall and on the City website.

Submitted by:

  
Brenda Wisneski, AICP, Deputy Director

### **ATTACHMENTS**

- PC 1 Rules of Procedures of the Planning Commission (as amended)
- PC 2 Planning Commission minutes from May 3, 2012
- PC 3 Planning Commission minutes from May 22, 2008

# **Attachment No. PC 1**

Rules of Procedures of the Planning Commission (as amended)

# RULES OF PROCEDURES OF THE PLANNING COMMISSION

## CITY OF NEWPORT BEACH, CALIFORNIA

### I. TITLE

The official title of this Commission shall be “Planning Commission of the City of Newport Beach, California.”

### II. MEMBERSHIP AND TERM

Pursuant to Section 702 of the City Charter, the Planning Commission shall consist of seven members appointed and approved by the City Council. Each member shall serve a term of four years, such terms to be on a staggered basis. Pursuant to the City Council Policy A-2, Commission appointments can be extended beyond one term when in the judgment of the Council, a reappointment would recognize and extend an unusual contribution by the incumbent. In no event will individual appointments to the Commission exceed two consecutive full terms, exclusive of appointments to fill unexpired terms. The [Planning-Community Development](#) Director, the City Engineer, and the City Attorney, or their representatives, are advisors to the Commission and do not have a vote.

### III. OFFICERS

A. The offices of the Commission shall be:

1. [Chairman](#), whose duties shall be to preside at all meetings, and to call all special meetings, appoint committees, and perform all other proper duties of a presiding officer.
2. [Vice Chairman](#), who in the absence of the [Chairman](#), or his/[her](#) inability to act, shall preside at all meetings and perform all other duties of the [Chairman](#).
3. [Secretary](#), who in the absence of the [Chairman](#) and [Vice Chairman](#), or their inability to act, shall preside at all meetings and perform all other duties of the [Chairman](#). The Secretary shall also keep a written record of all business transacted by the Commission, prepare the agenda of regular and special meetings arrange proper and legal notice of hearings, attend to correspondence of the Commission, and such other duties as are normally carried out by a Secretary. In his/[her](#) absence, the Secretary may delegate his/[her](#) duties to the [Planning-Community Development](#) Director, and the

~~Planning-Community Development~~ Director shall be known as the Ex-Officio Secretary of the Planning Commission. ~~The Community Development Director shall designate a City employee to serve as the Recording Secretary.~~

- B. The Chair~~man~~, Vice Chair~~man~~, and Secretary shall be elected at the annual meeting of the Commission or an adjournment of that meeting, and shall hold office for a period of one year or until their successors are elected. In the event an office becomes vacant, a successor shall be elected to fill the remainder of the unexpired term.

#### IV. ADVISORS

The Chair~~man~~ may, with consent of the Planning Commission, request the attendance at Planning Commission meetings of any officer or employee of the City to assist the Commission in its deliberations in an advisory capacity.

#### V. LOCATION OF MEETINGS

The Planning Commission shall hold all of its meetings, whether the same shall be a regular or special meeting or study session, in the council chambers of the City Council ~~in the City Hall Building~~, or in any such other place after notice duly given, within the corporate limits of the City.

#### VI. TIME OF MEETINGS

- A. The annual meeting of the Commission shall be the first regular meeting in July of each year.
- B. Regular meetings of the Commission shall be held on the Thursdays preceding the second and fourth Tuesday of each month. These meetings shall commence at the hour of 6:30 p.m. except that the Chair~~man~~ may call for said meetings to commence at an earlier hour when it is determined that the Commission's workload warrants such earlier starting time. When this schedule conflicts with holidays or the mandates of priority projects, the Commission may alter this schedule as set forth in sections E and F below. Proper notice of such meeting shall be given according to the requirements of applicable law.
- C. In addition to regular meetings, the Planning Commission may convene a study session to hear reports from the staff and review, discuss, and debate general planning and zoning matters of interest to the City preceding any regularly scheduled meeting when the Planning Commission Chair~~man~~ makes the determination that a study session is warranted. No official action will be taken at a study session.

During a study session, the Planning Commission may also become informed about a major project proposal within the City or its sphere of influence, or any other matter within the jurisdiction of the Planning Commission. No approval of any type may be given at a study session and none may be inferred. No question, comment, or suggestion by any member of the Planning Commission, positive or negative, will be deemed to create any indication the Planning Commission will approve or disapprove a project.

- D. No agenda item shall be introduced after the hour of 10:30 p.m. Furthermore, any item introduced and being discussed by 11:00 p.m. and not concluded by 11:30 p.m. shall be continued by the Planning Commission to another date. The intent and purpose of this policy is to facilitate maximum public participation and to encourage a reasonable hour in which the Planning Commission business is discussed and to protect against fatigue in discussing and deciding important City issues. The above time periods may be extended by motion approved by majority vote of the Commissioners present.
- E. Any meeting may be adjourned from time to time by the majority vote of the members present.
- F. Special meetings may be held as deemed necessary at the request of the majority of the members of the Commission or by call of the Chairman, Vice Chairman, or Secretary; notice of such special meetings shall be posted and served upon all members at least 24 hours before the special meeting, and to each local newspaper of general circulation, radio, and television station requesting notice in writing. The notice shall specify the time, place, and matters to be considered at the special meeting, and only the matters specified may be considered.

## VII. AGENDAS

- A. As provided herein, an agenda containing a brief description of each item of business to be transacted or discussed shall be posted at a location freely accessible to the public at least 72 hours before each regular meeting. Study session agendas shall be distributed to the public on the same basis as regular agendas.
- B. ~~Any~~ Any regular, adjourned, and/or special meeting, or study session of the Planning Commission shall be open to the public and to the maximum extent possible afford the public an opportunity to comment on all matters before the Planning Commission. Every agenda shall provide an opportunity for members of the public to speak on any off-agenda item of interest to the public.
- C. No action may be taken on an off-agenda item unless (a) a majority of those Commissioner present determine that an emergency situation exists; or (b) two-thirds of the Commissioners, or all of the Commissioners if less than two-thirds

are present, determine there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda; or (c) the item was included in a properly posted agenda for a prior meeting occurring not more than five days prior to the meeting at which the action is taken and the matter was continued to the meeting at which action is taken. It is inevitable that subjects will arise, either during the course of consideration of agenda items or during public comment, on which no action can be taken because the circumstances outlined in (a) through (c) above do not exist. In such event, the Chair~~man~~ shall have the power to refer the matter to staff, or to place the item on the agenda of a future meeting, or both.

## VIII. VOTING PROCEDURE

- A. At any meeting of the Planning Commission ~~a majority~~four members of said Commission shall constitute a quorum for the transaction of business. Every Commissioner should vote unless disqualified by reason of a conflict of interest. A Commissioner who abstains from voting is counted as being present and in effect consents that a majority of those present and voting shall decide the question voted upon.
- B. Any vote of the Commission, including a roll call vote, may be registered by the members by answering "YES" for an affirmative vote, or "NO" for a negative vote upon the member's name being called by the Recording ~~secretary~~Secretary, or by pressing a switch to cause a green light to show for an affirmative vote, or a red-light to show for a negative vote upon a vote being called for by the Chair~~man~~. The result of any vote registered by means of a lighting system shall be ~~audible~~audibly announced by the Recording Secretary and recorded in the minutes as the vote. If a member is present and does not cast a vote as described above, that member shall be considered as abstaining. In case of emergency or problems with the vote registering lighting system, the Chair~~man~~ may determine any other reasonable manner to vote and register votes on any matters on any agenda.
- C. Any Commissioner who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Chair~~man~~ state this determination and the nature of such disqualification in open meeting. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Commissioner affected, be decided by the other members of the Commission. A Commissioner who is disqualified by reason of a conflict of interest in any matter shall not remain in ~~his/her seat~~the council chambers during the debate and vote on such matter, ~~but~~and shall request ~~and be given the~~ permission of the Chair~~man~~ to ~~depart until the item is closed~~step down from the Commission table. A Commissioner stating such disqualification shall not be counted as a part of the quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.

- D. Any tie vote shall constitute a lost motion and may be reconsidered at the same meeting at which the action was taken, by a motion offered by any Planning Commissioner who voted on the matter. If there is no action by an affirmative vote, the result is denial.
- E. Except for a tie vote, a motion to reconsider any action taken by the Planning Commission must be made at the same meeting at which the action was taken and may only be made by one of the Planning Commission members who voted with the prevailing side.

## IX. ORDER OF BUSINESS

- A. The order of business for regular, adjourned, or special meetings shall be:

1. Call to order by the Chairman.

2. Pledge of Allegiance

3. Roll Call

4. Public comments.

5. Request for Continuances

6. Consent Items, including but not limited to Approval of minutes of preceding meeting.

7. Consideration of matters on the agenda which may include public hearings and new business.

8. Additional Business Staff and Commissioner Items, including:

a. Motion for Reconsideration

b. Community Development Director's Report of Council actions on Planning-related matters and other matters of interest to the Planning Commission.

c. Committee Reports, when applicable.

d. Matters which a member may wish to place on a future agenda.

9. Any other business which may properly come before the Commission.



6.10. [Request for excused absences.](#)

7.11. [Adjournment.](#)

## X. CONDUCT OF MEETINGS

- A. All meetings shall be conducted under the order of parliamentary procedure as specified in the last revised edition of Robert's Rules of Order to the extent that such rules are not in conflict with these Rules of Procedure.
- B. All Commissioners shall address all questions and comments through the Chair~~man~~.
- C. All persons attending meetings of the Commission will be asked to identify themselves, sign the sheet at the podium, and address Commissioners or other persons present through the Chair~~man~~.
- D. Exhibits: All maps, letters, and documents considered by the Commission at any hearing shall become a part of the records of the Commission.
- E. Motions: ~~Second Required. A~~ Any motion [may be made](#) by any member of the Commission, ~~excluding~~ [including](#) the presiding officer, ~~-. All motions require a second in order to~~ [may](#) be considered by the Commission ~~only upon receiving a second.~~
- F. Substitute Motions: A substitute motion may be made by any member of the Commission, [including the presiding officer](#), after a motion is on the floor. The substitute motion will suggest a different course of action or the opposite action of the main motion. No more than two substitute motions can be placed on the table for consideration at the same time. If the substitute motion fails, the main motion remains on the floor. If the substitute motion passes, it will cancel out the main motion
- G. If an applicant submits additional written or printed material for the Planning Commission's consideration less than seven (7) working days prior to the date of the hearing on the matter, the Planning Commission may continue the matter and the applicant shall be deemed to have consented to such a continuance.
- H. E-mails: "E-mails from Planning Commissioners requesting minor clarification of factual information provided to Planning Commissioners by staff for any Planning Commission agenda item may be answered by the [Planning-Community Development](#) Director or his/[her](#) designee prior to the Planning Commission meeting at which such agenda item is to be considered. E-mails raising new issues or expanding upon issues addressed in the staff report for an agenda item that, as determined by the [Planning-Community Development](#) Director, are more

appropriately considered by the Planning Commission at a public meeting will be printed for distribution to Planning Commissioners at the respective meeting.

E-mails sent directly to Planning Commissioners after agenda packets have been distributed and before the respective Planning Commission meeting shall be forwarded to the Planning ~~Department~~ Division for printing and/or copying for distribution to Planning Commissioners at the respective Planning Commission meeting. Information contained in any such e-mails from a project applicant which the Planning Commission determines, in a public meeting, may have significant bearing on the agenda item under consideration may be cause for the Planning Commission to continue such agenda item to allow sufficient time for review and analysis of such information and the applicant shall be deemed to have consented to such a continuance.<sup>2</sup>

- I. Public Comments: Public comments on any agenda item shall be limited to three minutes per speaker, unless a request for a time extension is granted by the Chair.
- J. Use of Electronic Devices: The use of any type of electronic device by a Commissioner during any meeting of the Planning Commission is intended to solely support the business of the Commission, and shall not distract a Commissioner from the meeting. Use of any type of electronic device during any meeting must adhere to the requirements of -the Brown Act.

## XI. COMMITTEES

The ~~chairman~~ Chair may appoint such committees as may be deemed necessary to carry out the function of the Planning Commission. Members shall serve at the pleasure of the Chair~~man~~.

## XII. CORRESPONDENCE AND COMMUNICATIONS

It shall be the duty of the Ex-Officio Secretary to draft and sign all correspondence necessary for the execution of the duties and functions of the Planning Commission as hereinbefore stated in the rules of the Newport Beach Planning Commission.

## XIII. ATTENDANCE

- A. Regular attendance at meetings of the Planning Commission is required of all members to enable the Commission to discharge the duties imposed upon it by law.
- B. A Commissioner absent from three consecutive regular meetings without securing the consent of the Commission, entered upon the minutes, shall be deemed to have resigned.
- C. The Ex-Officio Secretary shall notify the City Council of such resignation and request, in the name of the Commission, appointment of a new member to fill the unexpired term of the member resigning.

## XIV. POLICY

All matters of policy not covered by law may be adopted as a "Resolution of Policy" and when so adopted shall be considered as the official policy of the Commission.

## XV. AMENDMENT OF RULES

- A. These rules may be proposed to be amended or added to by four affirmative votes of the Planning Commission at a regular meeting pursuant to the procedures in Section XVB.
- B. No amendment of or addition to these rules shall be made unless notice in writing of the proposed amendment or addition shall be filed with the Ex-Officio Secretary at the regular meeting next preceding the meeting at which the motion to change is made.

## XVI. MINUTES

- A. The Recording Secretary shall prepare draft minutes for regular, adjourned, and/or special meetings and submit the minutes to the Planning Commission for review and approval. The minutes shall record all actions of the Planning Commission and provide a summary record of any Planning Commission, staff, and/or public questions and comments made during the meeting.

B. Once approved by the Planning Commission, the Chair and Secretary shall sign the final minutes.

Adopted	December 16, 1976
Amended	August 3, 1978
Amended	September 7, 1978
Amended	November 8, 1979
Amended	January 25, 1980
Amended	February 5, 1981
Amended	March 18, 1982
Amended	February 5, 1987
Amended	October 6, 1988
Amended	July 7, 1994
Amended	August 8, 1996
Amended	May 6, 1999
Amended	December 7, 2000
Amended	November 2006
Amended	February 2007
Amended	<u>April-May</u> 2008
<u>Amended</u>	<u>July</u> 2012

## **Attachment No. PC 2**

Planning Commission minutes from May 3, 2012

~~Motion~~ made by Commissioner Tucker and seconded by Vice Chair Hillgren, and carried (7 - 0) to continue the item to the Planning Commission meeting of June 7, 2012.

~~AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker  
NOES: None.  
ABSTENTION: None.  
ABSENT: None.~~

## H. NEW BUSINESS

### ITEM NO. 5 Review of Rules of Procedures of the Planning Commission (PA2012-065)

Chair Toerge read the title to the aforementioned item, noting that he requested the item for the benefit of the newer Commissioners and addressed references in the document to a "Planning Director" noting the nomenclature is no longer in existence. He referenced Section 1; Page 7 regarding a staff liaison and felt it should be amended to reflect the City's organizational chart. Regarding Page 5, he suggested updating references to the "Planning Director, City Attorney and City Engineer" throughout the document. Chair Toerge addressed Page 7, Agendas, VII (B), regarding affording the public and opportunity to comment to the maximum extent possible. He referenced a recent project hearing where there was not adequate seating for everyone and asked regarding the policy upon that occurrence.

Commissioner Tucker referenced the increased capacity of the new City Hall facility and felt the issue would be addressed. He made grammatical corrections to specific areas in the text and suggested clarifying that when a Commissioner recuses himself/herself from hearing an item, he/she must be excused from the Chambers, not only the dais.

Regarding Page 9, Chair Toerge suggested inserting Roll Call between "Call to Order" and "Public Comments". He referenced "Additional Business" noting that there is a new style that should be reflected in the document. Regarding Page 10, he addressed a restriction that does not allow the presiding officer to make a motion. He suggested deleting exclusion of the presiding officer to make a motion.

Deputy City Attorney Torres noted that the item does not exclude the presiding officer from making a motion, but rather offers him the privilege to discuss an issue without a second.

Chair Toerge felt that a motion from any Commissioner should require a second before debate. Commissioner Tucker agreed with Chair Toerge's comments.

Commissioner Kramer inquired regarding the history of the legislative issue and expressed agreement with Chair Toerge's suggestion.

Regarding F – G, regarding submission of additional documents by applicants less than seven (7) days before a hearing where the Commission may continue the hearing without the applicant's consent, Chair Toerge noted that e-mail communication is often received the day of a hearing and felt it important to consider.

Regarding H, Chair Toerge addressed references to a "Planning Director" and his designee, Chair Toerge suggested adding "or her." He referenced e-mails sent directly to Commissioners, advances in technology and using electronic devices to research items during hearings. He questioned the appropriateness of doing so and expressed concern regarding possible perceptions that Commissioners are not listening. He felt that during hearings, Commissioners should not use electronic devices other than in emergency situations.

Vice Chair Hillgren felt that electronic devices are great tools but agreed that they should not be used during public hearings and comments, but that during conversations amongst Members and staff, the ability to use them may be useful.

Commissioner Brown concurred and added that is why staff is present; to provide required information.

Commissioner Tucker also concurred. He referenced a lawsuit in the City of Los Angeles where the City Council was not focused; he added that the case addressed allowing the public to comment, but not requiring officials to listen. The resolution was to vote them out of office.

Chair Toerge felt it important to listen to staff, the public and one another and not be distracted by electronic devices.

Commissioner Ameri stated that it is one example of how distractions can occur. He felt the general rule should be to not use electronic devices during a hearing, but only for emergency situations, outside the Chambers.

Commissioner Kramer indicated that he was not in favor of any restriction and inquired regarding the rule in City Council meetings. He agreed with using common courtesy but spoke in support of using technology.

Vice Chair Hillgren agreed with Commissioner Kramer's comments regarding having the proper resources, whether printed or electronic but felt common courtesy should be used in listening to the proceedings.

Chair Toerge noted these are public hearings, for the benefit of the public and expressed concern regarding a potential for criticism when Members are distracted and not participating. He suggested disallowing the conduction of personal business and reiterated his position.

Commissioner Tucker suggested language regarding using electronic devices for personal business but understood the use of electronic devices as resource tools.

Community Development Director Brandt recommended that staff receive all of the comments, draft amendments to the document, and return in June with a proposed draft that the Commission could consider and vote on.

Vice Chair Hillgren added that there is a need to establish a policy on the style of minutes produced, either general or verbatim. He suggested adding the item as a topic of discussion.

Chair Toerge commented positively on the transcription of minutes provided currently and agreed with documenting the issue.

Commissioner Ameri commented positively on the minutes as well.

**Motion** made by Commissioner Tucker and seconded by Commissioner Brown, and carried (7 - 0) to continue the item to the Planning Commission meeting of June 21, 2012.

Chair Toerge invited comments from those interested in addressing the Commission on this item.

Jim Mosher commented regarding "Secretary" and noted that the City Charter Section 704, states that the City Manager will designate a Secretary to record and preserve the minutes and felt that would imply that Commissioner Ameri would perform that task. Regarding Page 7, regarding Agendas, he addressed an issue regarding the recent Banning Ranch EIR meeting relative to inclusion of resolutions in the agendas. He suggested the agenda distinguish action items from discussion items and that a resolution not be considered unless it is noticed on the agenda. Regarding "Voting Procedures," he suggested specifying the designation of a quorum (i.e., four (4) Commissioners). Regarding "Disqualification under Conflicts of Interest," he noted that there is a City Council policy wherein even if there is a conflict that does not rise to the level where a Member does not need to leave the Chambers, it is supposed to be announced and recorded in the minutes. He also suggested announcing the receipt of Ex-Parte communications. Mr. Mosher addressed tie votes and suggested inserting language that four (4) affirmative votes are needed for resolutions to pass. Regarding "Reconsidering Actions," he noted the City Council allows reconsideration at the same meeting or a following meeting. He felt that if the Commission wants to reconsider an item, it be placed on the agenda for the next meeting. Regarding "Conduct of Meetings," he questioned the creation of the "three-minute" rule, its enforcement and the number of public comments allowed. He felt it appropriate to re-open the public comment period, if needed. He referenced the section on "E-mails" and making amendments to the rules. Regarding the later stated that if a motion is to be made, it should be announced that it will be at the next "proceeding" meeting.

Steve Ray, Banning Ranch Conservancy, agreed with Commissioner Tucker's comments regarding the use of electronic devices. He stated that he does not believe the current Commission has a problem with not paying attention, but felt that the Commission should be allowed to use whatever is comfortable for them. Regarding Page 7 under "Agendas," and accommodating the public, he stated that the procedure used in the City of Huntington Beach relative to overflow crowds to allow for public participation as well as in the City of Costa Mesa. He stated that Newport Beach does not have an allowance for the process and stated it is a fairly easy way to fix and suggested the Commission consider the issue,

seriously. Regarding "Voting Procedures," he addressed State requirements regarding conflicts of interest, noting that it is important for Commissioners to show interest and need to follow State and City legal requirements. He referenced "E-mails" and he addressed the importance of the information for the Commission and the public. Mr. Ray stated related procedures in the City of Huntington Beach.

Seeing and hearing no one else wishing to address the Commission on this item, Chair Toerge closed the public comment period.

Chair Toerge agreed with separating the functions of staff secretary versus the Commission Secretary. He agreed with the suggestion to list a quorum as constituting four (4) Members. He did not support requiring four (4) votes when there are five (5) Commissioners present. He addressed motions to reconsider.

It was noted that a motion to reconsider would be to take a vote over at the same meeting or the next meeting. The Commission's By-Laws call for the motion to reconsider to be made at the same meeting, but would not be re-noticed.

Chair Toerge stressed the importance of communicating the issue to the public so that an applicant is aware.

Community Development Director Brandt suggested placing that in the agenda as an item.

Chair Toerge addressed the length of time given for individual public comment and the appropriate way to handle it is at the discretion of the Chair.

Commissioner Tucker addressed previous process for motions to reconsider and commented on the number of votes required. He also agreed with the three-minute rule for individual public comment. Regarding changing plans, he felt that it would be up to the discretion of the Commission and agreed with the present process.

Commissioner Ameri addressed the issue regarding the number of votes required, he agreed with a majority of the quorum in order to maintain efficiency.

**Motion** made by Commissioner Tucker and seconded by Commissioner Brown, and carried (7 – 0), to continue the Review of Rules of Procedure to June 21, 2012.

AYES:	Ameri, Brown, Hillgren, Kramer, Myers, Toerge, and Tucker
NOES:	None.
ABSTENTION:	None.
ABSENT:	None.

Staff noted that the Commissioner comments have been recorded by staff and filed with the Community Development Director.

## **I. STAFF AND COMMISSIONER ITEMS**

### **ITEM NO. 6** Community Development Director's report.

Community Development Director Brandt presented an update on 418 Carnation Avenue noting that staff is working with the property owner and his/her representative to ensure that the project complies with the City's Municipal Code. She asked the Commission contact her with specific questions regarding the project.

Regarding the pending lot merger for 2808 and 2812 Ocean Boulevard will be before City Council on Tuesday, May 8, 2012.

She stated that the City of Newport Beach Community Development Department today, lost a special member of the team, Marina Marrelli, who fought a long a heroic battle against cancer. Ms. Brandt stated that Marina was a well-loved representative of the City, having worked for the City for more than fifteen (15) years. She will be missed by staff and the public she served and Ms. Brandt extended sympathy and condolences to her family and asked the Commission adjourn in her memory.



## **Attachment No. PC 3**

Planning Commission minutes from May 22, 2008

to this project.

Public comment was closed.

Mr. Lepo noted this item will come back to the Planning Commission if the applicant is unable to build without a request for a variance.

**Motion** was made by Commissioner Peotter and seconded by Commissioner Toerge to table this item indefinitely.

**Ayes:** Peotter, Cole, Hawkins, McDaniel and Toerge

**Noes:** None

**Excused:** Eaton and Hillgren

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**SUBJECT:** Review of preliminary CIP (PA2007-131)

**ITEM NO. 6**  
**PA2007-131**

**Approved**

An annual review of the Preliminary Fiscal Year 2008-20-09 Capital Improvement Program to determine consistency with the General Plan and Coastal Land Use Plan, and to make recommendations to the City Council concerning the proposed public works project.

Ms. Brown gave an overview of the staff report.

**Motion** was made by Commissioner Toerge and seconded by Commissioner Cole to recommend the Capital Improvement Program as presented for Fiscal Year 08/09 (PA2007-131) with the added recommendation that the City Council consider incorporating the dredging of the lower bay into this program.

Chairman Hawkins noted that the proposed location of a new city hall at the Avocado site is inconsistent with the open space designation and he will not vote for finding of consistency.

Mr. Lepo noted that after the recent vote, the Charter says the city hall goes there.

**Ayes:** Eaton, Peotter, Cole, McDaniel and Toerge

**Noes:** Hawkins

**Excused:** Eaton and Hillgren

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**SUBJECT:** Planning Commission procedures and minutes  
(Continued from 04/03/2008)

**ITEM NO. 7**  
**Procedures and minutes**

**Approved**

At the Planning Commission meeting of March 20, 2008, Commissioner Peotter requested that Planning Commission procedures including the use of verbatim meeting minutes be placed on this agenda for discussion. Included with this report are the "Rules of Procedures of the Planning Commission," excerpts from *Robert's Rules of Order*, and a copy of a City Council meeting speaker request card for consideration by the Commission in determining appropriate actions on this agenda item.

Commissioner Peotter noted he is trying to simplify business practice. They should be more topical minutes rather than verbatim minutes.

The speaker card would help the secretary and the chairman who can order them in a way that causes the meeting to flow easier. He can announce the name of

the speaker.

**Motion** was made by Commissioner Peotter to adopt both suggested procedural changes as policies in our Commission structure.

Commissioner Cole noted agreement on the minutes but not on the speaker cards as it may discourage public participation.

At the request of Chairman Hawkins, the maker of the motion agreed to split the motion.

**Motion** was made by Commissioner Peotter and seconded by Commissioner Cole to have action minutes per Robert's rules with exceptions as discussed.

Commissioner Toerge noted it is a good practice to have Commissioners say what they want the minutes to reflect so Council knows the Commissioners' feelings about the issue; likes how the minutes are done now; does not agree with the use of speaker cards.

Commissioner McDaniel noted If we can make the minutes shorter, we can solve a bunch of problems.

<b>Ayes:</b>	Peotter, Cole and McDaniel
<b>Noes:</b>	Hawkins and Toerge
<b>Excused:</b>	Eaton and Hillgren

**Motion** was made by Commissioner Peotter to require speaker cards.

The item died for lack of a second.

Discussion then ensued on whether the Chairman has the right to second a motion or to make a substitute motion.

**Motion** was made by Commissioner Cole and seconded by Commissioner Peotter to allow the Chairman to second a motion but not be able to make a motion or a substitute motion.

Chairman Hawkins noted he does not support the motion as it makes the rules too specific.

<b>Ayes:</b>	Peotter, Cole, McDaniel and Toerge
<b>Noes:</b>	Hawkins
<b>Excused:</b>	Eaton and Hillgren

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#### ADDITIONAL BUSINESS:

- a. City Council Follow-up - Mr. Lepo reported that the ordinances for Hoag Hospital were adopted; and, an appeal of the Tommy Bahamas was heard and Council overturned the ruling of the Planning Commission.
- b. Matters which a Planning Commissioner would like Staff to report on at a subsequent meeting - Commissioner McDaniel noted the schedule for July with one meeting on the 17 and the June 19 meeting is the last one for Commissioner Cole.

#### ADDITIONAL BUSINESS